

ASSEMBLY BILL

No. 1233

Introduced by Assembly Member Jones

February 22, 2005

An act to amend Sections 65583.2 and 65584 of the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 1233, as introduced, Jones. Housing element: regional housing need.

The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of land suitable for residential development in meeting the jurisdiction's share of the regional housing need, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning facilities and services to these sites.

This bill requires that this inventory include the jurisdiction's share of the regional housing need in the current planning period and any portion of the share that remains unmet from the planning period for all income levels pursuant to these provisions.

This bill would provide that, for purposes of making the assessment and inventory for meeting the locality's share of the regional housing need, a city's or county's share of the regional housing need includes, among other things, the share of the regional housing need for the current planning period and any portion of the regional housing need from the previous planning period that remains unmet.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65583.2 of the Government Code is
2 amended to read:
3 65583.2. (a) A city's or county's inventory of land suitable
4 for residential development pursuant to paragraph (3) of
5 subdivision (a) of Section 65583 shall be used to identify sites
6 that can be developed for housing within the planning period and
7 that are sufficient to provide for the jurisdiction's share of the
8 regional housing need *in the current planning period and any*
9 *portion of the share that remains unmet from the prior planning*
10 *period* for all income levels pursuant to Section 65584. As used
11 in this section, "land suitable for residential development"
12 includes all of the following:
13 (1) Vacant sites zoned for residential use.
14 (2) Vacant sites zoned for nonresidential use that allows
15 residential development.
16 (3) Residentially zoned sites that are capable of being
17 developed at a higher density.
18 (4) Sites zoned for nonresidential use that can be redeveloped
19 for, and as necessary, rezoned for, residential use.
20 (b) The inventory of land shall include all of the following:
21 (1) A listing of properties by parcel number or other unique
22 reference.
23 (2) The size of each property listed pursuant to paragraph (1),
24 and the general plan designation and zoning of each property.
25 (3) For nonvacant sites, a description of the existing use of
26 each property.
27 (4) A general description of any environmental constraints to
28 the development of housing within the jurisdiction, the
29 documentation for which has been made available to the
30 jurisdiction. This information need not be identified on a
31 site-specific basis.
32 (5) A general description of existing or planned water, sewer,
33 and other dry utilities supply, including the availability and
34 access to distribution facilities. This information need not be
35 identified on a site-specific basis.

1 (6) Sites identified as available for housing for
2 above-moderate income households in areas not served by public
3 sewer systems. This information need not be identified on a
4 site-specific basis.

5 (7) A map that shows the location of the sites included in the
6 inventory, such as the land use map from the jurisdiction's
7 general plan for reference purposes only.

8 (c) Based on the information provided in subdivision (b), a
9 city or county shall determine whether each site in the inventory
10 can accommodate some portion of its share of the regional
11 housing need by income level during the planning period, as
12 determined pursuant to Section 65584. The analysis shall
13 determine whether the inventory can provide for a variety of
14 types of housing, including multifamily rental housing,
15 factory-built housing, mobilehomes, housing for agricultural
16 employees, emergency shelters, and transitional housing. The
17 city or county shall determine the number of housing units that
18 can be accommodated on each site as follows:

19 (1) If local law or regulations require the development of a site
20 at a minimum density, the department shall accept the planning
21 agency's calculation of the total housing unit capacity on that site
22 based on the established minimum density. If the city or county
23 does not adopt a law or regulations requiring the development of
24 a site at a minimum density, then it shall demonstrate how the
25 number of units determined for that site pursuant to this
26 subdivision will be accommodated.

27 (2) The number of units calculated pursuant to paragraph (1)
28 shall be adjusted as necessary, based on the land use controls and
29 site improvements requirement identified in paragraph (4) of
30 subdivision (a) of Section 65583.

31 (3) For the number of units calculated to accommodate its
32 share of the regional housing need for lower income households
33 pursuant to paragraph (2), a city or county shall do either of the
34 following:

35 (A) Provide an analysis demonstrating how the adopted
36 densities accommodate this need. The analysis shall include, but
37 is not limited to, factors such as market demand, financial
38 feasibility, or information based on development project
39 experience within a zone or zones that provide housing for lower
40 income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b) the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors

including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 2. Section 65584 of the Government Code is amended to read:

1 65584. (a) (1) For the fourth and subsequent revisions of the
2 housing element pursuant to Section 65588, the department shall
3 determine the existing and projected need for housing for each
4 region pursuant to this article. For purposes of subdivision (a) of
5 Section 65583, the share of ~~a city or county of the city's or~~
6 ~~county's~~ regional housing need shall include *the share for the*
7 *current planning period and any portion of the regional housing*
8 *need from the previous planning period that remains unmet and*
9 that share of the housing need of persons at all income levels
10 within the area significantly affected by the general plan of the
11 city or county.

12 (2) While it is the intent of the Legislature that cities, counties,
13 and cities and counties should undertake all necessary actions to
14 encourage, promote, and facilitate the development of housing to
15 accommodate the entire regional housing need, it is recognized,
16 however, that future housing production may not equal the
17 regional housing need established for planning purposes.

18 (b) The department, in consultation with each council of
19 governments, shall determine each region's existing and
20 projected housing need pursuant to Section 65584.01 at least two
21 years prior to the scheduled revision required pursuant to Section
22 65588. The appropriate council of governments, or for cities and
23 counties without a council of governments, the department, shall
24 adopt a final regional housing need plan that allocates a share of
25 the regional housing need to each city, county, or city and county
26 at least one year prior to the scheduled revision for the region
27 required by Section 65588. The allocation plan prepared by a
28 council of governments shall be prepared pursuant to Sections
29 65584.04 and 65584.05 with the advice of the department.

30 (c) Notwithstanding any other provision of law, the due dates
31 for the determinations of the department or for the councils of
32 governments, respectively, regarding the regional housing need
33 may be extended by the department by not more than 60 days if
34 the extension will enable access to more recent critical
35 population or housing data from a pending or recent release of
36 the United States Census Bureau or the Department of Finance. If
37 the due date for the determination of the department or the
38 council of governments is extended for this reason, the
39 department shall extend the corresponding housing element

1 revision deadline pursuant to Section 65588 by not more than 60
2 days.

3 (d) The regional housing needs allocation plan shall be
4 consistent with all of the following objectives:

5 (1) Increasing the housing supply and the mix of housing
6 types, tenure, and affordability in all cities and counties within
7 the region in an equitable manner, which shall result in each
8 jurisdiction receiving an allocation of units for low and very low
9 income households.

10 (2) Promoting infill development and socioeconomic equity,
11 the protection of environmental and agricultural resources, and
12 the encouragement of efficient development patterns.

13 (3) Promoting an improved intraregional relationship between
14 jobs and housing.

15 (4) Allocating a lower proportion of housing need to an
16 income category when a jurisdiction already has a
17 disproportionately high share of households in that income
18 category, as compared to the countywide distribution of
19 households in that category from the most recent decennial
20 United States census.

21 (e) For purposes of this section, “household income levels” are
22 as determined by the department as of the most recent decennial
23 census pursuant to the following code sections:

24 (1) Very low incomes as defined by Section 50105 of the
25 Health and Safety Code.

26 (2) Lower incomes, as defined by Section 50079.5 of the
27 Health and Safety Code.

28 (3) Moderate incomes, as defined by Section 50093 of the
29 Health and Safety Code.

30 (4) Above moderate incomes are those exceeding the moderate
31 income level of Section 50093 of the Health and Safety Code.

32 (f) Notwithstanding any other provision of law, determinations
33 made by the department, a council of governments, or a city or
34 county pursuant to this section or Section 65584.01, 65584.02,
35 65584.03, 65584.04, 65584.05, 65584.06, or 65584.07 are
36 exempt from the California Environmental Quality Act (Division
37 13 (commencing with Section 21000) of the Public Resources
38 Code).

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